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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

EDWARD EUGENE GARNER,

Petitioner,

vs.

NEVADA ATTORNEY GENERAL, *et al.*,

Respondents.

Case No. 2:15-cv-01425-GMN-VCF

**ORDER**

This action was opened by the Clerk of Court as an action for a writ of habeas corpus by a state prisoner, pursuant to 28 U.S.C. § 2254. Petitioner has submitted an application to proceed *in forma pauperis*. (ECF No. 1). However, no petition has been submitted. Unless an issue of federal constitutional or statutory law is implicated by the facts presented, there is no cognizable claim under federal habeas corpus. *Estelle v. McGuire*, 502 U.S. 62, 68 (1991). As there is no petition filed in this action, it will be dismissed, without prejudice to filing a petition as a new action. Petitioner at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

**IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (ECF No. 1) is **DENIED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice to the filing of a new petition in a new action.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

**IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he may not file further documents in this action.

1           **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable  
2 jurists would not find the dismissal of the improperly-commenced action without prejudice to be  
3 debatable or wrong.

4           **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

5           **DATED** this 30th day of July, 2015.

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9 Gloria M. Navarro, Chief Judge  
10 United States District Court  
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